

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JOE MITCHELL DORSEY,)
)
Plaintiff,)
)
v.) CIVIL ACTION NO.: 2:05-CV-1239-F
)
MUNICIPAL COURT OF ANDALUSIA,)
et al.,)
)
Defendants.)

ANSWER

COMES NOW the Defendant Anthony Clark, Sheriff of Covington County, Alabama, and responds to the Complaint filed by Plaintiff in the above-styled cause and states as follows:

1. Plaintiff brings his suit under 42 U.S.C. § 1983 and claims that his constitutional rights were violated by Defendant.¹ More specifically, as a convicted inmate, the Plaintiff alleges that his rights have been violated in that the Defendant failed to provide safe jail facilities and adequate or appropriate medical attention in violation of the Plaintiff's Eighth Amendment right to be free from cruel and unusual punishment.

2. Defendant admits that the Plaintiff was incarcerated on or before December 6, 2005, at the Covington County Jail.

3. Defendant denies the remaining allegations and inferences in the Plaintiff's Complaint.

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim upon which relief can be granted. Defendant did not deprive Plaintiff of any constitutional right to which he is entitled.

¹ The following statement of the issues and claims made by Plaintiff are based upon Plaintiff's Complaint and the undersigned's interpretation of the issues raised. If other issues are presented, Defendant generally denies any such

2. Any claims against Defendant in his official capacity are barred by the Eleventh Amendment and because Defendant is not a "person" under 42 U.S.C. § 1983.

3. Defendant is entitled to qualified immunity in his individual capacity.

4. The Plaintiff's claims are barred due to the Plaintiff's failure to exhaust all available state remedies.

5. Defendant is not legally responsible for the physical plant and facilities of the Covington County jail.

6. Defendant reserves the right to add additional defenses upon a complete investigation of Plaintiff's claims, completion of any discovery allowed, and if any further pleading is required or allowed by the Court.

WHEREFORE, PREMISES CONSIDERED, Defendant requests this Court to enter judgment in his favor and grant unto him costs and attorney's fees pursuant to law and 42 U.S.C. § 1988.

Respectfully submitted on this the 22nd day of February, 2006.

s/Scott W. Gosnell
SCOTT W. GOSNELL, Bar Number: GOS002
Attorney for Defendant
WEBB & ELEY, P.C.
7475 Halcyon Pointe Road (36117)
P.O. Box 240909
Montgomery, Alabama 36124
Telephone: (334) 262-1850
Fax: (334) 262-1889
E-mail: sgosnell@webbeley.com

allegations as being untrue and completely without basis in law or fact.

CERTIFICATE OF SERVICE

I hereby certify that on this the 22nd day of February, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF and served the following Non-CM/ECF participant by United States Mail, postage prepaid:

Joe Mitchell Dorsey
Covington County Jail
290 Hillcrest Drive
Andalusia, Alabama 36420

s/Scott W. Gosnell
OF COUNSEL